

EXHIBIT D

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d/b/a The BlenderBottle Company

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TROVE BRANDS, LLC d/b/a THE
BLENDERBOTTLE COMPANY, a Utah
limited liability company,

Plaintiff,

v.

TRRS MAGNATE LLC d/b/a HYDRA CUP,

Defendant.

No. 2:22-cv-02222-TLN-CKD

**DECLARATION OF JACOB R.
ROSENBAUM IN SUPPORT OF
PLAINTIFF'S CROSS-MOTION**

Hon. Troy L. Nunley
Hon. Carolyn K. Delaney

1 I, Jacob. Rosenbaum, declare as follows:

2 1. I am an attorney licensed to practice in the State of California. I am a partner in the
3 law firm of Knobbe, Martens, Olson & Bear LLP and am attorney of record in the above-
4 captioned matter. I have personal knowledge of the matters set forth herein and, if called upon to
5 testify, I could and would testify competently thereto.

6 2. I submit this Declaration in Support of its Opposition to Defendant's Motion to
7 Modify the Scheduling Order and Plaintiff's Cross-Motion.

8 3. Attached hereto as **Exhibit 1** is a true and correct copy of BlenderBottle's First Set
9 of Requests for Production, served on May 13, 2023.

10 4. Attached hereto as **Exhibit 2** is a true and correct copy of BlenderBottle's First Set
11 of Interrogatories, served on May 13, 2023.

12 5. Hydra Cup's responses to BlenderBottle's discovery requests failed to identify the
13 shaker bottle products Hydra Cup has sold, so that BlenderBottle was unable to create a complete
14 list of accused products. Hydra Cup also failed to provide sales and financial information or
15 information on the keywords and products it targets in marketing the accused products. And
16 HydraCup failed to produce design documents, financial documents, documents that refer to
17 BlenderBottle, or email communications with its product designers, its Chinese manufacturer, or
18 its customers relating to the accused products.

19 6. Prior to filing its motion to modify the scheduling order, Hydra Cup had only
20 produced one email in this case.

21 7. BlenderBottle sent three deficiency letters to Hydra Cup, the parties met and
22 conferred multiple times. Hydra Cup represented each time that it would supplement its
23 responses. BlenderBottle accepted the representation, and Hydra Cup supplemented its responses
24 four times.

25 8. Despite its representations, Hydra Cup never provided the information and
26 documents sought in BlenderBottle's motion to compel.

27 9. On January 17, 2024, BlenderBottle noticed a motion to compel Hydra Cup to
28 provide basic discovery and sent Hydra Cup BlenderBottle's portion of the joint statement

1 required by Local Rule 251(c). I informed counsel for Hydra Cup that the complete joint
2 statement had to be filed by January 24, 2024.

3 10. Attached hereto as **Exhibit 3**, is a true and correct copy of an email sent by me to
4 counsel for Hydra Cup on February 12, 2024.

5 11. Attached hereto as **Exhibit 4**, is a true and correct copy of an email sent by counsel
6 for Hydra Cup to me on February 14, 2024.

7 12. Attached hereto as **Exhibit 5**, is a true and correct copy of a Subpoena for
8 Documents and Testimony to Ginikanwa Uzegbu. Ginikanwa Uzegbu is a third-party designer
9 that Hydra Cup used to design the Accused Products.

10 13. Attached hereto as **Exhibit 6**, is a true and correct copy of a Subpoena for
11 Documents and Testimony to Jeff Harlan. Jeff Harlan is a third-party designer that Hydra Cup
12 used to design the Accused Products.

13 14. In response to the subpoenas attached as Exhibit 5 and 6, the third-party designers
14 produced hundreds of documents, design files, and emails that they exchanged with Hydra Cup's
15 CEO, Thomas Raymus, during the process of designing the accused products.

16 15. Attached hereto as **Exhibit 7**, is a true and correct copy of an email produced by
17 Jeff Harlan, having production numbers JH0000212-214. (Filed Under Seal)

18 16. Attached hereto as **Exhibit 8**, is a true and correct copy of an email produced by
19 Jeff Harlan, having production numbers JH0000093-96. (Filed Under Seal)

20 17. Attached hereto as **Exhibit 9**, is a true and correct copy of an email produced by
21 Jeff Harlan, having production number JH0000231. (Filed Under Seal)

22 18. In all, Hydra Cup's third-party designers produced over 600 emails and other
23 documents, none of which Hydra Cup has produced in this case.

24 19. BlenderBottle conducted the deposition of Mr. Uzegbu on February 21, 2024, and
25 the deposition of Mr. Harlan on February 22, 2024.

26 20. Attached hereto as **Exhibit 10**, is a true and correct copy of an email sent by me to
27 counsel for Hydra Cup on February 20, 2024.

28 21. In the two-month span from December 5, 2023 to February 7, 2024, Hydra Cup

1 propounded (a) 231 requests for production, bringing the total number of requests for production
2 to 341, (b) 268 requests for admission, bringing the total number of requests to 341, (c) four
3 individual deposition notices each of which included document requests, including Steve
4 Sorensen (amended five times), Michael Sorensen (amended four times), Kim Sorensen (amended
5 three times), and David Meyers (amended twice), (d) a 30(b)(6) deposition notice of
6 BlenderBottle (amended four times); and (e) four third-party subpoenas.

7 22. Attached hereto as **Exhibit 11**, is a true and correct copy of an email sent by me to
8 counsel for Hydra Cup on December 26, 2023.

9 23. Attached hereto as **Exhibit 12**, is a true and correct copy of an email string between
10 counsel for Hydra Cup and me dated between February 13, 2024 and February 16, 2024.

11 24. Hydra Cup did not respond to my February 14, 2024, email offering dates for the
12 depositions noticed by Hydra Cup. Hydra Cup never raised a scheduling conflict or explain why
13 the offered dates would not work.

14 25. On February 9, 2024, I conducted a meet and confer call with counsel for Hydra
15 Cup. During the call, counsel for Hydra Cup stated that Hydra Cup was planning to move to
16 modify the scheduling order so that it could take more discovery. I stated that a short extension
17 of the discovery period to complete depositions and resolve outstanding discovery disputes
18 seemed reasonable, but that I needed to confirm that BlenderBottle was agreeable to the extension.

19 26. Attached hereto as **Exhibit 13**, is a true and correct copy of an email sent by me to
20 counsel for Hydra Cup on February 12, 2024.

21 27. Attached hereto as **Exhibit 14**, is a true and correct copy of an email sent by me to
22 counsel for Hydra Cup on February 15, 2024.

23 28. Attached hereto as **Exhibit 15**, is a true and correct copy of an email sent by
24 counsel for Hydra Cup to me on February 17, 2024.

25 29. Hydra Cup did not provide a basis for refusing to stipulate to the extension
26 proposed by BlenderBottle.

27 30. Attached hereto as **Exhibit 16**, is a true and correct copy of excerpts from
28 BlenderBottle's responses to Hydra Cup's first set of Interrogatories.

1 31. On January 15, 2023, the day before the claim construction hearing, and on a Court
2 holiday, counsel for Hydra Cup informed counsel for BlenderBottle that he would not be able to
3 attend the claim construction hearing the next day. Defendant's other counsel informed
4 BlenderBottle's counsel that she was travelling internationally and would not be attending the
5 claim construction hearing either.

6 32. Attached hereto as **Exhibit 17**, is a true and correct copy of Hydra Cup's Fourth
7 Amended Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(6) to Plaintiff BlenderBottle.

8 33. Hydra Cup noticed a third-party deposition only to cancel it at the last minute.

9 34. Hydra Cup served a subpoena on the USPTO Examining Attorney who was
10 assigned to BlenderBottle's trade dress registration.

11 35. Attached hereto as **Exhibit 18**, is a true and correct copy of a letter sent by Peter
12 Ayers acting as Solicitor and Senior Counsel for Patent Law and Litigation to counsel for Hydra
13 Cup on February 20, 2024.

14 36. After receiving the letter attached as Exhibit 18, Hydra Cup withdrew its subpoena
15 to the USPTO Examining Attorney.

16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct.

18
19 Dated: March 7, 2024

Jacob R. Roseubaum
Jacob R. Rosenbaum